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[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-397 and EA-14-240; NRC-2015-0228]

In the Matter of Energy Northwest;

Columbia Generating Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) and Energy Northwest engaged in mediation as part of the NRC's Alternative Dispute Resolution Program which resulted in a settlement agreement as reflected in the confirmatory order relating to Columbia Generating Station.

DATES: The confirmatory order was issued to the licensee on September 28, 2015. The effective date is October 28, 2015.

ADDRESSES: Please refer to Docket ID **NRC-2015-0228** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2015-0228**. Address questions about NRC dockets to Carol Gallagher;

telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For questions about this Order,

contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Richard Guzman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1030, e-mail: Richard.Guzman@nrc.gov.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 5th day of October 2015.

For the Nuclear Regulatory Commission.

Nicholas Hilton, Chief,
Enforcement Branch
Office of Enforcement

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of
Energy Northwest
Columbia Generating Station

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Docket: 05000397
License: NPF-21
EA-14-240

CONFIRMATORY ORDER
(MODIFYING LICENSE)

I

Energy Northwest (Licensee) is the holder of Reactor Operating License NPF-21 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50 on April 13, 1984, and renewed on May 22, 2012. The license authorizes the operation of the Columbia Generating Station (CGS) in accordance with the conditions specified therein. The facility is located in Richland, WA.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on August 6, 2015, and subsequent discussions completed on August 25, 2015.

II

On December 11, 2013, the NRC's Office of Investigations (OI), Region IV Field Office, initiated an investigation to determine whether nuclear security officers (NSOs) assigned to Energy Northwest's CGS were willfully inattentive while on duty. The investigation was completed on March 11, 2015, and was documented in OI Report 4-2014-009, dated December 18, 2014. Based on the results of the investigation, the NRC concluded that, on multiple occasions

in 2012, 2013, and 2014, two security officers willfully violated 10 CFR 73.55(k)(5)(iii), in that they were not available at all times inside the protected area for their assigned response duties.

On August 6, 2015, Energy Northwest and the NRC met in an ADR session mediated by a professional mediator, arranged through the Cornell University Scheinman Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

In response to the NRC's offer, Energy Northwest requested use of the NRC ADR process to resolve differences it had with the NRC. On August 25, 2015, a preliminary settlement agreement was reached.

The NRC recognizes the corrective actions that Energy Northwest has already implemented associated with the events that formed the basis of this matter. These actions at CGS include:

- Informational briefings to NSOs on all shifts regarding the severity and the consequences of the incidents that formed the basis for this violation; and the reinforcement of using mitigation tools to avoid inattentiveness;
- Discussions with NSOs regarding regulatory requirements and the overall role security plays in the nuclear industry;

- Review of professionalism standards and expectations, as well as a code of ethics with NSOs and supervisors on each shift;
- Installation and use of surveillance cameras in bullet resistant enclosures (BREs);
- Increased frequency of radio checks to all posts and patrols; and
- Increased supervisory checks of posts and patrols;

The elements of the agreement, as signed by both parties, consist of the following:

- A. The NRC has concluded that a willful violation of Title 10 of the *Code of Federal Regulations* (10 CFR) 73.55(k)(5)(iii) occurred between 2012 and 2014, when NSOs at CGS were willfully inattentive while on duty, which resulted in their not meeting the requirement to be available at all times inside the protected area for their assigned response duties. Energy Northwest does not dispute this conclusion.
- B. Within 3 months of the date of this Confirmatory Order, Energy Northwest will conduct a common cause evaluation related to the events that formed the basis of this matter.
 1. The common cause evaluation will be conducted by a trained individual outside of the Emergency Services organization at CGS.
 2. The results will be incorporated into Energy Northwest's corrective action program at CGS, as appropriate.

3. A copy of the completed evaluation will be made available for NRC review.
- C. Within 18 months of the date of this Confirmatory Order, Energy Northwest will install wide-angle cameras in BREs to monitor the availability of nuclear security officers.
1. The cameras will be monitored by security supervisors (i.e., Sergeant or Lieutenant) at a frequency of not less than twice per shift per BRE when cameras are functional.
 2. When the cameras are not functional, security supervisors (i.e., Sergeant or Lieutenant) will conduct security post checks at a frequency of not less than twice per shift, provided there is adequate staffing (i.e., one lieutenant and two sergeants) to ensure other commitments can be met.
 3. Until cameras are installed in the BREs, Energy Northwest security management will continue to perform a minimum of two post checks per shift, provided there is adequate staffing (i.e., one lieutenant and two sergeants) to ensure other commitments can be met.
 4. Use of cameras to monitor the availability of NSOs inside BREs will be documented.
- D. Within 6 months of the date of this Confirmatory Order, Energy Northwest will revise its annual compliance and ethics computer-based training to address deliberate misconduct (10 CFR 50.5), compliance therewith, and consequences for non-compliance.

1. Prior to conducting the training, Energy Northwest will provide its proposed training plan to the NRC for its review. The NRC will communicate to the licensee any concerns regarding the plan within 30 days of submittal for resolution in a manner acceptable to both parties.
 2. Energy Northwest will complete administration of this training within 6 months of the date of this Confirmatory Order.
- E. Energy Northwest will ensure its NSOs understand the need to comply with regulations and the consequences for non-compliance by having NSOs sign a statement affirming the same. This statement will be signed by current NSOs within 6 months of the date of this Confirmatory Order and within 30 days of hire for new NSOs, subject to collective bargaining.
- F. Energy Northwest will prepare a “lessons learned” presentation derived from the common cause evaluation to be delivered to Energy Northwest’s nuclear security department at CGS concerning the incidents that formed the basis for this violation and the consequences.
1. Prior to offering this presentation, Energy Northwest will provide its proposed presentation to the NRC for its review. The NRC will communicate to the licensee any concerns regarding the presentation within 30 days of submittal for resolution in a manner acceptable to both parties.
 2. Energy Northwest will deliver the presentation to the nuclear security department at CGS within 6 months of the date of this Confirmatory Order.

- G. Energy Northwest will incorporate the lessons learned, derived from the common cause evaluation referenced in Condition B, and revise procedures at CGS as appropriate. A copy of the revised procedures will be made available for NRC review.
- H. Within 12 months of the date of this Confirmatory Order, Energy Northwest will prepare a presentation communicating the incidents that formed the basis for this violation to be delivered to an appropriate industry forum (e.g., the NEI Nuclear Security Working Group) subject to acceptance of the conference organizing committees.
1. This presentation will include, among other things, the significance of the incidents that formed the basis for this violation; the consequences of the actions; and the significant responsibilities of NSOs.
 2. Prior to making the presentation, Energy Northwest will provide its proposed presentation to the NRC for its review. The NRC will communicate to the licensee any concerns regarding the presentation within 30 days of submittal for resolution in a manner acceptable to both parties.
 3. Energy Northwest will deliver the presentation within 12 months of the date of this Confirmatory Order.
- I. Within 6 months of the date of this Confirmatory Order, Energy Northwest will ensure that an independent third party will conduct a targeted nuclear safety culture assessment of the security organization at CGS.

1. Based on the results of the assessment, Energy Northwest will incorporate recommended actions from the assessment into its corrective action program, as appropriate.
 2. A copy of the completed assessment will be made available for NRC review within 30 days of the completion of the assessment.
- J. Within 4 months of the date of this Confirmatory Order, Energy Northwest will revise its investigatory procedures to incorporate lessons learned from this matter (e.g., to engage the NRC Regional Office on Energy Northwest's plans to conduct regulatory violation investigations in parallel with the NRC's Office of Investigations).
- K. Notification to NRC When Actions Are Completed
1. Unless otherwise specified, Energy Northwest will submit written notification to the Director, Division of Reactor Safety, U.S. NRC Region IV, 1600 East Lamar Blvd., Arlington, Texas 76011-4511, at intervals not to exceed 3 months until the terms of the Confirmatory Order are completed, providing a status of each item in the Order.
 2. Energy Northwest will provide its basis for concluding that the terms of the Confirmatory Order have been satisfied, to the NRC, in writing.

L. Inspection Follow-up

Based on the corrective actions and enhancements described above, the NRC will conduct follow-up inspections using NRC Inspection Procedure 92702, "Followup on Corrective Actions for Violations and Deviations," to confirm, among other things, the thoroughness and adequacy of the above-referenced actions.

M. Administrative Items

1. The NRC and Energy Northwest agree that the above elements will be incorporated into a Confirmatory Order and that the NRC will consider the order an escalated enforcement action with respect to any future enforcement actions.
2. The NRC agrees to provide Energy Northwest with copies of the correspondence issued to the two nuclear security officers involved, and associated with the incidents that formed the basis for this violation.
3. In consideration of the commitments delineated above, the NRC agrees to refrain from issuing a Notice of Violation for the violation discussed in NRC Inspection Report and Investigation Report to Energy Northwest of June 25, 2015 (EA-14-240).
4. This agreement is binding upon successors and assigns of Energy Northwest.

N. Within 30 days of the date of the Confirmatory Order, Energy Northwest shall pay a civil penalty of \$35,000.

On September 21, 2015, Energy Northwest consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Energy Northwest further agreed that this Confirmatory Order is to be effective 30 days after its issuance and that Energy Northwest has waived its right to a hearing.

IV

Since the licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that Energy Northwest's commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Energy Northwest's commitments be confirmed by this Confirmatory Order. Based on the above and Energy Northwest's consent, this Confirmatory Order is effective 30 days after its issuance.

V

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, THAT THE ACTIONS DESCRIBED BELOW WILL BE TAKEN AT COLUMBIA GENERATING STATION AND THAT LICENSE NO. NPF-21 IS MODIFIED AS FOLLOWS WITH RESPECT TO THE ACTIONS TO BE TAKEN AT THE COLUMBIA GENERATING STATION:

- A. Within 3 months of the date of this Confirmatory Order, Energy Northwest will conduct a common cause evaluation related to the events that formed the basis of this matter.
 - 1. The common cause evaluation will be conducted by a trained individual outside of the Emergency Services organization at CGS.
 - 2. The results will be incorporated into Energy Northwest's corrective action program at CGS, as appropriate.
 - 3. A copy of the completed evaluation will be made available for NRC review.
- B. Within 18 months of the date of this Confirmatory Order, Energy Northwest will install wide-angle cameras in BREs to monitor the availability of nuclear security officers.
 - 1. The cameras will be monitored by security supervisors (i.e., Sergeant or Lieutenant) at a frequency of not less than twice per shift per BRE when cameras are functional.
 - 2. When the cameras are not functional, security supervisors (i.e., Sergeant or Lieutenant) will conduct security post checks at a frequency of not less than twice per shift, provided there is adequate staffing (i.e., one Lieutenant and two Sergeants) to ensure other commitments can be met.
 - 3. Until cameras are installed in the BREs, Energy Northwest security management will continue to perform a minimum of two post checks per shift, provided there is

adequate staffing (i.e., one Lieutenant and two Sergeants) to ensure other commitments can be met.

4. Use of cameras to monitor the availability of NSOs inside BREs will be documented.

C. Within 6 months of the date of this Confirmatory Order, Energy Northwest will revise its annual compliance and ethics computer-based training to address deliberate misconduct (10 CFR 50.5), compliance therewith, and consequences for non-compliance.

1. Prior to conducting the training, Energy Northwest will provide its proposed training plan to the NRC for its review. The NRC will communicate to the licensee any concerns regarding the plan within 30 days of submittal for resolution in a manner acceptable to both parties.

2. Energy Northwest will complete administration of this training within 6 months of the date of this Confirmatory Order.

D. Energy Northwest will ensure its NSOs understand the need to comply with regulations and the consequences for non-compliance by having NSOs sign a statement affirming the same. This statement will be signed by current NSOs within 6 months of the date of this Confirmatory Order and within 30 days of hire for new NSOs, subject to collective bargaining.

E. Energy Northwest will prepare a “lessons learned” presentation, derived from the common cause evaluation, to be delivered to Energy Northwest’s nuclear security

department at CGS concerning the incidents that formed the basis for this violation and the consequences.

1. Prior to offering this presentation, Energy Northwest will provide its proposed presentation to the NRC for its review. The NRC will communicate to the licensee any concerns regarding the presentation within 30 days of submittal for resolution in a manner acceptable to both parties.
 2. Energy Northwest will deliver the presentation to the nuclear security department at CGS within 6 months of the date of this Confirmatory Order.
- F. Energy Northwest will incorporate the lessons learned, derived from the common cause evaluation referenced in Condition B, and revise procedures at CGS as appropriate. A copy of the revised procedures will be made available for NRC review.
- G. Within 12 months of the date of this Confirmatory Order, Energy Northwest will prepare a presentation communicating the incidents that formed the basis for this violation to be delivered to an appropriate industry forum (e.g., the NEI Nuclear Security Working Group) subject to acceptance of the conference organizing committees.
1. This presentation will include, among other things, the significance of the incidents that formed the basis for this violation; the consequences of the actions; and the significant responsibilities of NSOs.
 2. Prior to making the presentation, Energy Northwest will provide its proposed presentation to the NRC for its review. The NRC will communicate to the licensee

any concerns regarding the presentation within 30 days of submittal for resolution in a manner acceptable to both parties.

3. Energy Northwest will deliver the presentation within 12 months of the date of this Confirmatory Order.

H. Within 6 months of the date of this Confirmatory Order, Energy Northwest will ensure that an independent third party will conduct a targeted nuclear safety culture assessment of the security organization at CGS.

1. Based on the results of the assessment, Energy Northwest will incorporate recommended actions from the assessment into its corrective action program, as appropriate.
2. A copy of the completed assessment will be made available for NRC review within 30 days of the completion of the assessment.

I. Within 4 months of the date of this Confirmatory Order, Energy Northwest will revise its investigatory procedures to incorporate lessons learned from this matter (e.g., to engage the NRC Regional Office on Energy Northwest's plans to conduct regulatory violation investigations in parallel with the NRC's Office of Investigations).

J. Notification to NRC When Actions Are Completed

1. Unless otherwise specified, Energy Northwest will submit written notification to the Director, Division of Reactor Safety, U. S. NRC Region IV, 1600 East Lamar

Blvd., Arlington, Texas 76011-4511, at intervals not to exceed 3 months until the terms of this Confirmatory Order are completed, providing a status of each item in the Confirmatory Order.

2. Energy Northwest will provide its basis for concluding that the terms of this Confirmatory Order have been satisfied, to the NRC, in writing.

- K. Within 30 days of the date of this Confirmatory Order, Energy Northwest shall pay a civil penalty of \$35,000.

The Regional Administrator, Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by Energy Northwest of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Energy Northwest may request a hearing within 30 days of the issuance date of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing.

A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended at 77 FR 46562, August 3,

2012), which is codified in pertinent part at 10 CFR Part 2, Subpart C. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. Further information on the Web-based submission form is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at MSHD.Resource@nrc.gov, or by a toll-free call to 866-672-7640. The NRC Electronic Filing

Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, participants are requested not to include

copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application.

If a person other than Energy Northwest requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue a separate order designating the time and place of any hearings, as appropriate. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be effective and final 30 days after the issuance date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

FOR THE NUCLEAR REGULATORY COMMISSION

Marc L. Dapas
Regional Administrator

Dated this 28th day of September 2015
[FR Doc. 2015-26046 Filed: 10/9/2015 08:45 am; Publication Date: 10/13/2015]